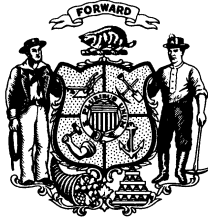


WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



David J. Stute, Director
Legislative Council Staff
(608) 266-1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE RULE 95-224

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

2. Form, Style and Placement in Administrative Code

a. The two separate “relating to” clauses should be combined into one “relating to” clause which follows the list of sections affected.

b. Recreated s. PD 1.04 (5) should be redrafted as follows:

PD 1.04 (5) (a) Certification for appellate cases in general. An attorney shall be certified for appellate cases if he or she meets all of the following requirements:

1. The attorney has requested certification.
2. The attorney is licensed...this state.
3. The attorney meets the applicable qualifications in pars. (c) to (f).

(b) Power of appellate division director. Notwithstanding pars. (c) to (f), the director of the appellate division has the discretion to [Note: the term “may” should be used instead of “has the discretion to”] determine...with the qualifications under pars. (c) to (f).

(c) Level one. Level one certification means the attorney is certified for misdemeanor...E felonies. An attorney is qualified for cer-

tification at this level if the attorney has done either of the following:

1. Filed...certification.
2. Completed...certification.
- (d) Level two. Level two...
- (e) Level three. Level three...
- (f) Specialized areas of certification. Specialized areas....

Note that all of the subunits of s. PD 1.04 (5) should end with periods, except introductory material which should end with a colon. Throughout the rule, the introductory material should include a phrase such as “all of the following” or “any of the following.”

c. In sub. (5) (e), “revocation” of what? Also, is it necessary, for the sake of clarity, to specify that this certification applies to any type of plea (i.e., insert “any” before “pleas”). The same comment applies to the use of “pleas” elsewhere in the rule. In par. (e) 2., “SPD” should be spelled out. Parentheses should not be used in rules; after “equivalent,” the board could insert “, including a law school course, clinical program or judicial clerkship.”

d. In par. (f) (intro.), should “and D felonies” be “or D felonies”? In par. (f) 3., “s. PD 1.04 (2) (c)” should just be “sub. (2) (c)”; this paragraph number will, of course, be different if the board rennumbers the rule in accordance with the suggestions above. Several internal references in the rule need to be changed. [See s. 1.07 (2), Manual.]

e. In par. (h), “TPR” should be deleted and spelled out later in the rule. In all of these “specialized areas of certification,” the references to “in this area” should be made specific [e.g., as is done in par. (h) 1.--“certification in termination of parental rights cases” and not just “certification in this area”].

f. Since this rule may be considered by many private practice attorneys to be a significant change in the certification requirements, should there be a delayed effective date on all or a portion of the rule? Do a significant number of attorneys need time to comply with these new certification requirements?

5. Clarity, Grammar, Punctuation and Use of Plain Language

In s. PD 1.04 (5) (g), “complied” is misspelled.